

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM TAYLOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:20-cv-327
)	
KIADA NELSON,)	
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff William Taylor is an inmate at SCI-Forest who is serving a life sentence for first-degree murder, conspiracy to commit murder, and related firearm offenses. Plaintiff commenced this civil rights action on November 17, 2020 with the lodging of a complaint against Kiada Nelson, a co-defendant in his underlying state criminal trial. ECF No. 1. Upon the lodging of Plaintiff's complaint, the matter was referred to United States Magistrate Judge Patricia L. Dodge for pretrial proceedings, in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rule 72 of the Local Civil Rules of this Court.

The case was administratively closed on November 30, 2020 because Plaintiff had neither paid the applicable filing fees nor submitted a properly supported application for leave to proceed *in forma pauperis*. ECF No. 2. After Plaintiff submitted a copy of his inmate account statement, Magistrate Judge Dodge reopened the case, granted Plaintiff's motion for leave to proceed *in forma pauperis*, and directed the Clerk to file Plaintiff's complaint. ECF Nos. 7, 8.

The complaint, ECF No. 9, was officially filed of record on January 22, 2021. Thereafter, Magistrate Judge Dodge reviewed the sufficiency of Plaintiff's claims in accordance with 28 U.S.C. §1915A and 28 U.S.C. §1915(e).

On February 4, 2021, Magistrate Judge Dodge issued a Report and Recommendation, ECF No. 11, opining that Plaintiff's complaint should be dismissed without prejudice and without leave to amend. Noting that Plaintiff appeared to be invoking 42 U.S.C. §1983 in his pleading, Judge Dodge concluded that Plaintiff's averments could not support a viable §1983 claim against Nelson (who is a private citizen), because there was no factual basis from which it could be inferred that Nelson had acted under color of state law or was a willful participant in joint action with the State or its agents. *See West v. Atkins*, 487 U.S. 42, 50 (1988). Judge Dodge noted that the only discernable claims in the complaint were state law claims against Nelson based upon alleged infliction of emotional distress (Count I) and false imprisonment (Count II) -- claims over which this Court lacks independent subject matter jurisdiction. Because she viewed the defects in the complaint as irreparable, Magistrate Judge Dodge recommended that the complaint be dismissed without leave for further amendment. She also recommended, however, that the dismissal be without prejudice to Plaintiff's right to pursue his claims against Nelson in state court, should he choose to do so. Plaintiff's objections to the Report and Recommendation were initially due on or before February 22, 2021. ECF No. 11.

On February 25, 2021, the Court received a "Letter of Request" from Plaintiff, in which he inquired whether he would still have to pay the full filing fee if he withdrew his complaint and, if so, whether he could have additional time to file his objections to the R&R. ECF No. 14. The next day, the Court entered a text order in which it advised Plaintiff that he would be obligated to pay the fees associated with filing this civil action regardless whether he voluntarily withdraws his claims. ECF No. 15. To the extent Plaintiff sought additional time to file objections, the Court construed the letter as a motion for an extension of time, granted the motion, and extended the deadline for objections to March 26, 2021. *Id.*

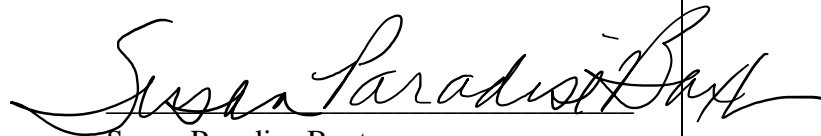
On March 19, 2021, the Court received additional correspondence from Plaintiff, which it construed as a second motion for an extension of time to file objections. ECF Nos. 17 and 18. By text order entered on April 9, 2021, the Court extended the deadline for objections to April 30, 2021. ECF No. 18. Plaintiff was advised that any further requests for additional time should be submitted to the Court in the form of a motion. *Id.* To date, no objections have been filed, nor has Plaintiff filed a motion to further extend the objections deadline.

Accordingly, after *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following Order is entered:

NOW, this 18th day of May, 2021;

IT IS ORDERED that, in accordance with the provisions of 28 U.S.C. §1915A and 28 U.S.C. §1915(e)(2), the within civil action is DISMISSED without prejudice and without further leave to amend based upon this Court's lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that the report and recommendation of U.S. Magistrate Judge Patricia L. Dodge, issued on February 4, 2021, ECF No. [11], shall be, and hereby is, adopted as the opinion of the Court.



Susan Paradise Baxter
United States District Judge

cm: William Taylor
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United States Magistrate Judge Patricia L. Dodge
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